

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

DAVID RIBEIRO,
Plaintiff,

v.

**DAVID S. USHER, MARTIN W. NAREY,
PAUL M. KELLY, JAMES D. BRIANT, MICHAEL
HIGGINS, DISTRICT ATTORNEY WILLIAM
BENNETT, HOLYOKE POLICE DEPARTMENT,
COMMONWEALTH OF MASSACHUSETTS and
CITY OF HOLYOKE**
Defendants.

**CIVIL ACTION
NO. 04-30201 MAP**

**MOTION OF DEFENDANTS MICHAEL HIGGINS AND PAUL KELLY FOR
SUMMARY JUDGMENT**

Now come the Defendants Michael Higgins and Paul Kelly by and through their undersigned counsel, pursuant to Rule 56 of the Federal Rules of Civil Procedure, and move this Honorable Court to enter summary judgment in their favor. As grounds therefore, the Defendants refer this Court to the attached Statement of Undisputed Facts, Memorandum of Law in Support of Motion for Summary Judgment, and the following Exhibits:

Exhibit A: Portions of the deposition of David Ribeiro (Pages 1-2; 4; 49-50; 52-53; 55-56; 63; 66; 71-73; 76;78; 80; 84-86; 88; 90-92; 97; 112; 131-33; 135-36; 142; 144; 163);

Exhibit B: Grand Jury Transcript of the Commonwealth of Massachusetts v. David Ribeiro (Pages 1-18);

Exhibit C: David Ribeiro's Motion for Reconsideration to Include Defendant Lt. Michael Higgins in this Civil Action;

Exhibit D: Certified copy of the Hampden Superior Court Criminal Docket No.
HDCR2004-00913; and

Exhibit E: Certified copy of David Ribeiro's motion to suppress unlawfully obtained
confession.

THE DEFENDANTS
MICHAEL HIGGINS AND
PAUL KELLY
By their attorneys,

/s/ Austin M. Joyce
Austin M. Joyce
BBO #:255040
John K. Vigliotti
BBO #: 642337
Reardon, Joyce & Akerson, P.C.
397 Grove Street
Worcester, MA 01605

CERTIFICATE OF SERVICE

I, John K. Vigliotti, hereby certify that a true and correct copy of Motion of Defendants Michael Higgins and Paul Kelly for Summary Judgment; Defendants, Michael Higgins and Paul Kelly's, Memorandum of Law in Support of Motion for Summary Judgment; and Statement of Undisputed Material Facts in Compliance with Local Rule 56.1, by Defendants Michael Higgins and Paul Kelly, was served, via U.S. Mail, first class postage prepaid, on this 30th day of September, 2005, to the following:

David Ribeiro, pro se
M.C.I. Concord
P.O. Box 9106
Concord, MA 01742

Charles Lavelle, Esq.
Holyoke Law Department
563 Dwight Street
Holyoke, MA 01040

/s/ John K. Vigliotti
John K. Vigliotti